

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MELVIN SHELTON

Petitioner,

v.

Case No. 10-C-0269

JOHN HUSZ

Respondent.

ORDER

On March 29, 2010, Melvin Shelton filed a habeas petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. In 1987, petitioner was convicted in Milwaukee County Circuit Court of sexual assault. He was sentenced to twenty years' imprisonment and is currently incarcerated at the Milwaukee Secure Detention Facility. On April 1, 2010, I reviewed the petition pursuant to Rule 4 of the Rules Governing § 2254 Cases and noted that the petition appeared to be frivolous. However, I allowed petitioner to file a statement in which he explains his claim in more detail, and petitioner has done so.

Upon review of petitioner's statement, I find that he is not entitled to relief in the district court, and that therefore the petition must be dismissed pursuant to Rule 4. Although I cannot discern the precise contours of petitioner's claim from his filings, he appears to be asserting that his conviction was obtained with evidence seized by the police in violation of the Fourth Amendment. However, pursuant to Stone v. Powell, such Fourth Amendment claims are not cognizable on habeas review so long as the state provided an opportunity for full and fair litigation of the claim. 428 U.S. 465, 494-95 (1976). In the

present case, petitioner has not attempted to show that the state denied him an opportunity for full and fair litigation of his Fourth Amendment claim, and therefore his claim is barred by Stone v. Powell.

THEREFORE, IT IS ORDERED that the petition is **DISMISSED** and that the clerk of court enter final judgment.

IT IS FURTHER ORDERED that, pursuant to Rule 11 of the Rules Governing § 2254 Cases, I find that petitioner is not entitled to a certificate of appealability.

FINALLY, IT IS ORDERED that petitioner's motion for transmittal of record is **DEINED**.

Dated at Milwaukee, Wisconsin, this 16 day of April, 2010.

/s _____
LYNN ADELMAN
District Judge